

**FRIDAY, JANUARY 13, 2023, AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**BRUNOBUILT, INC., an Idaho corporation, )**

**Plaintiff-Appellant, )**

**v. )**

**Docket No. 49175**

**ERSTAD ARCHITECTS, PA, an Idaho )**

**professional service corporation; ANDREW )**

**C. ERSTAD, CHERYL PEARSE, )**

**Defendants-Respondents, )**

**and )**

**MATERIALS TESTING & INSPECTION, )**

**LLC, an Idaho limited liability company; )**

**KEVIN L. SCHROEDER, CHARLES E. )**

**KAISER, ELIZABETH BROWN, DAVID O. )**

**CRAM, BRIGGS ENGINEERING, INC., an )**

**Idaho corporation; DEAN W. BRIGGS, )**

**TREASURE VALLEY ENGINEERS, INC., )**

**an Idaho corporation; MATRIX )**

**ENGINEERING, INC., an Idaho )**

**corporation; DOUGLAS L. UNGER, )**

**KLEINFELDER, INC., a California )**

**corporation; and G. ALEXANDER RUSH, )**

**Defendants. )**

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Steven J. Hippler, District Judge.

McConnell Wagner Sykes & Stacey, PLLC, Boise, for Appellant.

Brassey Crawford, PLLC, Boise, for Respondents.

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This appeal concerns a new construction residence in the Boise foothills that was never completed after a landside was discovered that allegedly damaged the property and impeded the build of the new residence. Among others not parties to this appeal, BrunoBuilt, Inc. sued Andrew C. Erstad, Cheryl Pearse, and Erstad Architects, PA for professional negligence in connection with work completed for construction of the residence.

Erstad, Pearse, and Erstad Architects moved the district court for summary judgment on three independent grounds, arguing that: (1) they owed no duty to BrunoBuilt; (2) the economic loss rule bars the claim, and (3) the claim was untimely under the two-year statute of limitations of I.C. § 5-291(4). BrunoBuilt disputed summary judgment on all asserted grounds. The district court concluded that Erstad, Pearse, and Erstad Architects did not owe a tort duty to BrunoBuilt—thus, summary judgment was warranted. Alternatively, the district court also ruled that even if there was a duty, the claim was barred by both the economic loss rule and the statute of limitation prescribed in I.C. § 5-219(4).

Two years after the district court issued its memorandum decision and order granting summary judgment, BrunoBuilt moved the district court for reconsideration of its grant of summary judgment citing new evidence and wanting to ensure all arguments were raised for the purposes of appeal. The district court denied the motion for reconsideration concluding it was untimely, lacking in diligence, and improper.

BrunoBuilt appeals the district court's grant of summary judgment to the Idaho Supreme Court, arguing that the district court erred: (1) in concluding that the defendants did not owe BrunoBuilt a duty of care; (2) in concluding the economic loss rule barred the claim; (3) in concluding that none of the exceptions to the economic loss rule applied; (4) in concluding that the statute of limitations barred the claim; and (5) in denying BrunoBuilt's motion to disqualify the district court judge.